Executive Summary – Enforcement Matter – Case No. 42878 Ray Rocha dba Paradise Point RV Marina RN101910032 Docket No. 2011-2038-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Paradise Point RV Marina, 648 Paradise Loop, Hemphill, Sabine County

Type of Operation:

Retail convenience facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 25, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,714

Amount Deferred for Expedited Settlement: \$2,542 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$443 Total Due to General Revenue: \$9,729

Payment Plan: 23 payments of \$423 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42878 Ray Rocha dba Paradise Point RV Marina RN101910032 Docket No. 2011-2038-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 20, 2011 and October 21, 2011

Date(s) of NOE(s): October 21, 2011

Violation Information

- 1. Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on February 29, 2008 [30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
- 2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Respondent accepted one delivery of fuel without a delivery certificate [30 Tex. ADMIN. CODE § 334.8(c)(5)(A)(i) and Tex. WATER CODE § 26.3467(a)].
- 3. Failed to provide proper corrosion protection for the UST system [30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)].
- 4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST [30 Tex. ADMIN. CODE § 37.815(a) and (b)].
- 5. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
- 6. Failed to provide release detection for the piping associated with the UST. Specifically, the Respondent did not conduct the annual piping tightness test [30 Tex. ADMIN. CODE § 334.50(b)(2), and Tex. WATER CODE § 26.3475(a)].
- 7. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 Tex. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Executive Summary – Enforcement Matter – Case No. 42878 Ray Rocha dba Paradise Point RV Marina RN101910032 Docket No. 2011-2038-PST-E

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately:
- i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form;
- ii. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel.
- b. Within 30 days:
- i. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST;
- ii. Install a corrosion protection system and test the system; and
- iii. Implement a release detection method for the UST at the Facility and conduct the annual piping tightness test.
- c. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

Contact Information

TCEO Attorney: N/A

TCEQ Enforcement Coordinator: Rajesh Acharya, Enforcement Division,

Enforcement Team 6, MC 128, (512) 239-0577; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412.

TCEO SEP Coordinator: N/A

Respondent: Ray Rocha, III, Operator, Paradise Point RV Marina, 648 Paradise

Loop, Hemphill, Texas 77619 **Respondent's Attorney:** N/A

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Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 31-Oct-2011 Assigned Screening 31-Oct-2011 PCW 1-Nov-2011 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Ray Rocha dba Paradise Point RV Marina Reg. Ent. Ref. No. RN101910032 Facility/Site Region 10-Beaumont Major/Minor Source Minor **CASE INFORMATION** Enf./Case ID No. 42878 No. of Violations 6 **Docket No.** 2011-2038-PST-E Order Type 1660 Media Program(s) Petroleum Storage Tank Government/Non-Profit No Multi-Media Enf. Coordinator Rajesh Acharya EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section **TOTAL BASE PENALTY (Sum of violation base penalties)** \$11,500 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** Subtotals 2, 3, & 7 \$0 0.0% Enhancement Notes No adjustment for compliance history. 0.0% Enhancement Subtotal 4 Culpability No \$0 Notes The Respondent does not meet the culpability criteria. Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 0.0% Enhancement* **Economic Benefit** Subtotal 6 \$0 Total EB Amounts \$1,784 *Capped at the Total EB \$ Amount Approx. Cost of Compliance SUM OF SUBTOTALS 1~7 \$11,500 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 10.6% \$1,214 Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Recommended enhancement to capture the avoided cost of compliance Notes associated with violation nos. 1, 4 and 5. Final Penalty Amount \$12,714 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$12,714

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

PAYABLE PENALTY

Deferral offered for expedited settlement.

Notes

20.0%

Reduction

Adiustment

-\$2,542

\$10,172

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Screening Date 31-Oct-2011

Docket No. 2011-2038-PST-E

Respondent Ray Rocha dba Paradise Point RV Marina

Case ID No. 42878

Reg. Ent. Reference No. RN101910032

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

omponent	ory <i>Sit</i> e Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	n	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
		ase Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
00101	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Per	centage (Subt	otal 2
at Violator (Subtotal 3)		
N/A	Adjustment Per	centage (Subt	otal 3
oliance Histo	ory Person Classification (Subtotal 7)		
N/A	Adjustment Per	centage (Subt	otal 7
iliance Histo	ry Summary		
Compliance History	No adjustment for compliance history.		

Screening Date		PCW
Respondent Case ID No.	Ray Rocha dba Paradise Point RV Marina	Policy Revision 2 (September 2002)
Reg. Ent. Reference No.		PCW Revision October 30, 2008
Media [Statute]	Petroleum Storage Tank	
Enf. Coordinator Violation Number	Rajesh Acharya	
1		
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)	
Violation Description	Failed to timely renew a previously issued underground storage tank (delivery certificate by submitting a properly completed UST registration certification form at least 30 days before the expiration date. Specificate delivery certificate expired on February 29, 2008.	and self-
	Bas	se Penalty \$10,000
>> Environmental Proper	ty and Human Health Matrix	
	Harm	
Release OR Actual	Major Moderate Minor	
Potential	Percent 0%	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	X Percent 10%	
Matrix Notes	100% of the rule requirement was not met.	
Motes		
	Adjustment	\$9,000
полити		\$1,000
Violation Events		
Number of V	iolation Events 4 1340 Number of violation	days
· Carlotte C		•
· ·	dailyweekly	
mark only one	monthly	
mark only one with an x	quarterly Violation Base	e Penalty \$4,000
	semiannual x	
*	single event	
	Four annual events are recommended,	
<u> </u>		
Good Faith Efforts to Comp	ly 0.0% Reduction	\$0
	Before NOV NOV to EDPRP/Settlement Offer Extraordinary	
	Ordinary	
	N/A X (mark with x)	
	The Respondent does not meet the good faith criteria for	
	Notes this violation.	
		- Francisco de la companya della companya della companya de la companya della com
	Violation	Subtotal \$4,000
Economic Benefit (EB) for	this violation Statutory Limit	Test
Estimate	d EB Amount \$368 Violation Final Pena	ilty Total \$4,422
	This violation Final Assessed Penalty (adjusted fo	
	i iiis violation Filiai Assesseu Felidity (aujusted 10	or limits) \$4,422

Respondent Case ID No. Rea. Ent. Reference No.	Ray Rocha dba 42878	conomic a Paradise Point F		wo	rksneet		
Media	Petroleum Sto					Percent Interest	Years of
Violation No.	1					- 0	Depreciation
	Item Cost	Date Required	Final Date	Vre	Interest Saved	5.0 Onetime Costs	15 EB Amount
Item Description							
v. 143 145-0450-104494 <u>29</u> 4-04 4 008449494 <u>4</u> 008494						Janes en	
Delaved Costs	1	1		7			
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	<u>\$0</u>	\$0	\$0 \$0
Engineering/construction Land				0.00	\$0 \$0	\$0 n/a	\$0 \$0
Record Keeping System				0.00	\$0 \$0	n/a	\$0 \$0
Training/Sampling	<u> </u>			0.00	\$0 \$0	n/a	\$0 \$0
Remediation/Disposal				0.00	\$0 \$0	n/a	\$0 \$0
Permit Costs				0.00	\$0 \$0	n/a	\$0
	1466		L	10.00			
Other (as needed)	\$100 Estimated cos		20-Jun-2012 very certificate h	1.09	\$5 nitting a properly o	n/a	\$5 tration and self
Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos certification fo	t to renew a delivorm. Date Requir	very certificate bed is the investi	enterir 0.00 0.00 0.00 0.00	nitting a properly of date. Final Date is ag item (except is \$0 \$0 \$0	ompleted UST regis the estimated date for one-time avoid \$0 \$0 \$0 \$0	tration and self of compliance. ded costs) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Ispection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos certification fo	t to renew a delivorm. Date Requir	very certificate bed is the investi	enterir 0.00 0.00 0.00 0.00 0.00	nitting a properly of date. Final Date is so so so so so so so so so	ompleted UST regis the estimated date for one-time avoid \$0 \$0 \$0 \$0	tration and self of compliance. led costs) \$0 \$0 \$0 \$0
Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos certification fo	t to renew a delivorm. Date Requir	very certificate bed is the investi	enterin 0.00 0.00 0.00 0.00 0.00 0.00 4.14	nitting a properly of date. Final Date is so so so so so \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	ompleted UST regis the estimated date for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	tration and self of compliance. led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos certification fo	t to renew a delivorm. Date Requir	very certificate bed is the investi	enterir 0.00 0.00 0.00 0.00 0.00	nitting a properly of date. Final Date is so so so so so so so so so	ompleted UST regis the estimated date for one-time avoid \$0 \$0 \$0 \$0	tration and self of compliance. led costs) \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos certification for ANNUAL \$300	t to renew a deliverm. Date Require IZE [1] avoided	very certificate bed is the investi	enterir 0.00 0.00 0.00 0.00 0.00 0.00 4.14 0.00 accurate	nitting a properly of date. Final Date is so	ompleted UST regis the estimated date for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	tration and self of compliance. led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$7 \$1 \$2 \$3 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5 \$5

Screening Date		Docket No. 2011-2038-PST-E	PCW
	Ray Rocha dba Paradise Point RV I	Marina	Policy Revision 2 (September 2002)
Case ID No Reg. Ent. Reference No			PCW Revision October 30, 2008
	Petroleum Storage Tank		
Enf. Coordinato			
Violation Numbe			
Rule Cite(s	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3	3467(a)
Violation Description	certificate before accepting d	common carrier a valid, current TCEQ delivery of a regulated substance into the ccepted one delivery of fuel without a contribute.	e UST.
		Ва	se Penalty \$10,000
>> Environmental Prone	rty and Human Health Mat	ix	
	Harm	*	
Release OR Actua		inor	
Potentia		x Percent 5%	
>>Programmatic Matrix			
Falsification	Major Moderate M	inor	
		Percent 0%	
Matrix which would		be exposed to insignificant amounts of period of the control of th	11
Notes		ne violation.	
			#0.F00
		Adjustment	\$9,500
			\$500
Violation Events			
	Walakian Franks		4
Number of	Violation Events 1	1 Number of violation	days
	daily		
	weekly		
mark only one	monthly quarterly	Violation Bas	e Penalty \$500
with an x	semlannual	Violation Bas	as renaity
	annual		
	single event x		
			1
	One single event is recommende	d for accepting one fuel delivery.	
Good Faith Efforts to Com	ply 0.0% Redu	tion	\$0
	Before NOV NOV to	EDPRP/Settlement Offer	
	Extraordinary		
	Ordinary (mark	Just W	
	N/A <u>x</u> (mark		
	Notes The Respondent do	pes not meet the good faith criteria for this violation.	
		Violation	Subtotal \$500
conomic Benefit (EB) for	this violation	Statutory Limit	Test
	ed EB Amount	\$0 Violation Final Pen	
	Management of the second of th	Final Assessed Penalty (adjusted f	
	iiiis violduuli	Assessed Fellalty (adjusted I	o. mmes) \$333

eg. Ent. Reference No. Media Violation No.	Petroleum Sto					Percent Interest	Years of Depreciation
Violation No.	Pomenina					5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved		EB Amount
Item Description							
Delayed Costs							
Eguipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0,00	\$0	\$0	\$0
Land	4			0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
li							
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed) Notes for DELAYED costs			Economic bene	0.00	\$0 \$0 ded in violation no	n/a	\$0 \$0
Other (as needed)	ANNUAL	:		0.00	\$0 ded in violation no ig item (except 1 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a . 1. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/ equipment Financial Assurance [2]	ANNUAL	:		0.00 it include the include of the i	\$0 ded in violation no sg item (except if \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a . 1. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 led costs) \$0 \$0 \$0 \$0 \$0

	eening Date	31-Oct-2011 Docket No. 2011-2038-PST- Ray Rocha dba Paradise Point RV Marina	POlicy Revision 2 (September 2002)
	Case ID No.	42878	PCW Revision October 30, 2008
Reg. Ent. Re			
		Petroleum Storage Tank Rajesh Acharya	
	ation Number	3	
	Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.	3475(d)
Violatio	on Description	Failed to provide proper corrosion protection for the UST syst	rem
	on Description	railed to provide proper corrosion protection for the obrigos	
			Base Penalty \$10,000
>> Environme	ntal. Prope	ty and Human Health Matrix	
	Release	Harm Major Moderate Minor	500005
OR	Actual	Hajor Hoderace Millor	·
	Potential	X Percent 25	5%
>>Programma			
	Falsification	Major Moderate Minor Percent (0%
Matrix	Human healtl	or the environment will or could be exposed to pollutants which would	exceed levels
Notes	that are p	rotective of human health or environmental receptors as a result of the	violation.
		**************************************	#7 FOO!
		Adjustment	\$7,500
-			\$2,500
Violation Even	ts		
	Number of	violation Events 1 10 Number of violati	on days
de carecana		daily weekly	
***************************************	mark only one	monthly X	+2.500
-	with an x	quarterly Violation E	Base Penalty \$2,500
,		annual	
		single event	
	One monthly	event is recommended based on documentation of the violation during	the October
		21, 2011 record review to the October 31, 2011 screening date.	
		0.00	\$0
Good Faith Eff	orts to com	Dly 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	40
		Extraordinary	
		Ordinary	
		The Respondent does not meet the good faith criteria fo	
www.roa.c.		Notes this violation.	"
AMARANA			
		Violati	on Subtotal \$2,500
Economic Ben	efit (EB) for	this violation Statutory Lin	nit Test
000000000000000000000000000000000000000	Estimat	ed EB Amount \$457 Violation Final Po	enalty Total \$2,764
300000000000000000000000000000000000000		This violation Final Assessed Penalty (adjusted	d for limits) \$2,764

	E	conomic	Benefit	Wo	rksheet		
Respondent	National Communication (Co.)	a Paradise Point R					
Case ID No.	42878				•		
Rea. Ent. Reference No.	RN101910032	2					
	Petroleum Sto						Years of
Violation No.						Percent Interest	Depreciation
Vibiation No.		rana see na sana see see					
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or s						
Delaved Costs							
Equipment	\$6,000	20-May-2011	20-Jun-2012	1.09	\$22	\$435	\$457
Buildings	30,000		EU JUIT EU E	0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs		investigatio	n date. Final Da	ite is ti	ne estimated date	•	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enterir	ng item (except i	for one-time avoid	led costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0 <u> </u>	\$0
Notes for Averner							-
Notes for AVOIDED costs							
**************************************	L			valence (variable)			
Approx. Cost of Compliance	<u></u>	\$6,000			TOTAL		\$457
Approx. cost of compitative	L	30,000					P+3/

Respondent Ray Roche das Paradise Point RV Manna Case ID No. 42878 Reg. Ent. Reference No. RN101910032 Media [Statute] Percleum Storage Tank Enf. Coordinator. Rajesh Achavay Violation Number Violation Description Failed to demonstrate exceptable financial assurance for taking corrective action and for compensating third parties for body hycy and property damage cased by accidental releases aring from the operation of the petroleum UST. Serviconmental, Property and Human Health Matrix Harm OR Release Major Moderate Minor Percent 0% >>Programmatic Matrix Falsification Major Moderate Minor Percent 10% Matrix 100% of the rule requirement was not met.		ening Date				2011-2038-PST-		PCW
Reg. Ent. Reference No. RN101910932 Medici Statute Statutory Limit Felication Limit				aradise Point RV Mai	rina		•	
Media [Statute] Petroleum Storage Tank							rew Revisio	n october 30, 2000
Violation Number A 30 Tex. Admin. Code § 37.815(a) and (b)	Medi	a [Statute]	Petroleum Storag	je Tank				
Violation Description Falled to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST.								
Violation Description Falled to demonstrate acceptable financial assurance for taking corrective action and for compensating thrito parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST. >> Environmental, Property and Human Health Matrix Release Major Moderate Minor	Viol		<u>4</u> L					
Violation Description Corcompensating third parties for body injury and property damage caused by accidental releases arising from the operation of the petroleum UST.		Ruie Cite(s)		30 Tex. Admin.	Code § 37.815(a) and (b)		
Violation Description Corcompensating third parties for body injury and property damage caused by accidental releases arising from the operation of the petroleum UST.				-				
>> Environmental, Property and Human Health Matrix Harm Harm	Violatio	n Description	for compensat	ing third parties for	bodily injury and	property damage	caused by	
Number of Violation Events Number of Viol						· E	lase Penalty	\$10,000
Number of Violation Events Number of Viol	>> Environme	ntal. Proper	tv and Huma	n Health Matrix				
Percent 0% >> Programmatic Major Moderate Minor Percent 10% Matrix Falsification X Percent 10% Matrix Notes 100% of the rule requirement was not met. Matrix Notes 100% of the rule requirement was not met. Matrix Notes 100% of the rule requirement was not met.				Harm				
>>Programmatic Matrix Falsification Major Moderate Minor X	OR			Moderate Mino	<u>r</u>			
Falsification Major Moderate Minor X			<u> </u>			Percent 0	%	
Falsification Major Moderate Minor X						-		
Matrix Notes 100% of the rule requirement was not met. Adjustment \$9,000 \$1,000 Violation Events Number of Violation Events Number of Violation Events Violation Base Penalty ### Adjustment \$9,000 \$1,000 \$1,000 \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 **The Respondent does not meet the good faith criteria for this violation. Violation Final Penalty Total \$1,000	>>Programma		Maior	Moderate Mino	r			
Notes 100% of the rule requirement was not met.			·		- Constitution	Percent 10	%	
Notes 100% of the rule requirement was not met.							——————————————————————————————————————	
Violation Events Number of Violation Events Mark only one with an x Semiannual annual single event x	Matrix		100	% of the rule require	ment was not m	at	# P.	
Violation Events Number of Violation Events Number of Violation Events	Notes		100	70 of the fale require	ment was not in	J.,		
Violation Events Number of Violation Events 1 365 Number of violation days daily weekly mark only one with an x Mark only one with an x One single event is recommended. One single event is recommended. Good Faith Efforts to Comply 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A X (mark with x) Notes The Respondent does not meet the good faith criteria for this violation. Violation Subtotal \$1,000 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$723 Violation Final Penalty Total \$1,106		t						
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Number of Violation Events 1 365 Number of violation days daily								
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Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$723 Violation Final Penalty Total \$1,106			L.				الس	
Estimated EB Amount \$723 Violation Final Penalty Total \$1,106						Violatio	on Subtotal	\$1,000
Estimated EB Amount \$723 Violation Final Penalty Total \$1,106	Economic Bene	fit (EB) for	this violation			Statutory Lim	iit Test	
		*		4-		en e		¢1 100
This violation Final Assessed Penalty (adjusted for limits) \$1,106		Esumate	JINDONIN GS DE	,	الاحتا	iviativn Final Pe	maity rotai	\$1,100
				This violation Fi	nal Assessed Pe	enalty (adjusted	l for limits)	\$1,106

Violation No.	Petroleum Sto	rage Tank				Percent Interest	Years of Depreciation
Violation No.						5.0	1
Item Description		Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	ANNUAL	IZE [1] avoided	costs before	enterir	ng item (except	for one-time avoid	led costs)
Notes for DELAYED costs Avoided Costs Disposal	ANNUAL	IZE [1] avoided	costs before (enterir 0.00	ng Item (except	for one-time avoid	led costs) \$0
Avoided Costs	ANNUAL	IZE [1] avoided	costs before (0.00			
Avoided Costs Disposal Personnel	ANNUAL	IZE [1] avoided	costs before (****	\$0	\$0	\$0
Avoided Costs Disposal Personnel	ANNUAL	IZE [1] avoided	costs before (0.00	\$0 \$0	\$0 \$0	\$0 \$0
Avoided Costs Disposal Personnel nspection/Reporting/Sampling	ANNUAL	IZE [1] avoided	costs before (0.00 0.00 0.00	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0
Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/equipment	ANNUAL \$660	IZE [1] avoided		0.00 0.00 0.00 0.00	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0

Case ID No. Reg. Ent. Reference No.	Ray Rocha dba Paradise Point RV Marina Policy Revis	
Reg. Ent. Reference No.		sion 2 (September 200.
		evision October 30, 200
	Petroleum Storage Tank	
Enf. Coordinator		
Violation Number	5	
Rule Cite(s)		
	and (c)(1)	4
Violation Description	Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the piping associated with the UST. Specifically, the Respondent did not conduct the annual piping tightness test.	
	Base Penalty	\$10,00
> chvironmental, Properi	ty and Human Health Matrix Harm	
Release	Major Moderate Minor	
OR Actual		
Potential	Percent 25%	
>Programmatic Matrix		
Falsification	Major Moderate Minor	
	Percent 0%	
		7
Matrix Human health	or the environment will or could be exposed to pollutants which would exceed levels	
Notes that are pr	rotective of human health or environmental receptors as a result of the violation.	
		J
	Adjustment \$7,500]
		\$2,50
		\$2,50
olation Events		
Niversia and a 6 N	(Falation Events)	
Number of V	/iolation Events 1 10 Number of violation days	
į	daily	
	weekly	
mark only one	monthly X	#3 F0
with an x	quarterly Violation Base Penalty semiannual	\$2,50
	annual	
.	single event	
-		a
One monthly	event is recommended based on documentation of the violation during the October	
One monthly	event is recommended based on documentation of the violation during the October 21, 2011 record review to the October 31, 2011 screening date.	7
One monthly		7
	21, 2011 record review to the October 31, 2011 screening date.	\$
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. DIV 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	4
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. DIV 0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary	\$
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date.	4
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. Diy D.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A X (mark with x)	\$
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date. 21, 2011 record review to the October 31, 2011 screening date.	\$
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. Diy O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) The Respondent does not meet the good faith criteria for	
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. Diy O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) Notes The Respondent does not meet the good faith criteria for this violation. Violation Subtotal	\$2,500
ood Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. Diy O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x) Notes The Respondent does not meet the good faith criteria for this violation. Violation Subtotal	
od Faith Efforts to Comp	21, 2011 record review to the October 31, 2011 screening date. Diy O.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A X (mark with x) Notes The Respondent does not meet the good faith criteria for this violation. Violation Subtotal this violation Statutory Limit Test	\$2,500

		conomic	Benefit	Wo	rksheet		
Respondent		a Paradise Point R					eran indigen eregi annop et en hannes et egene
Case ID No.	•						
eg. Ent. Reference No.		1					
	Petroleum Sto						Years of
		raye rank				Percent Interest	Depreciation
Violation No.	o Caldida de Paracerea						
	74 C	Date Required	Final Date	· •	Interest Saved	5.0 Onetime Costs	15 EB Amount
			Lillai Date		Ainerest Saveu	Onetime Costs	LO AMOUNT
Item Description	No commas or \$						
		na ("no o o na		da nu se nom e no		enemandorida fizor po en pou populático e palo dific	
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	:			0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	· 			0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	20-May-2011	20-Jun-2012	1.09	\$82	n/a	\$82
Notes for DELAYED costs Avoided Costs			estimate	d date	of compliance.	vestigation date. Fir	
Disposal	,			0.00	\$0	\$0	\$0
Personnel		la de la companya de		0.00	\$0	\$0	\$0
spection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	20-May-2010	20-May-2011	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	. \$0
12	<u> </u>	20-May-2010	20-May-2011	·		~~~	

PCW	Docket No. 2011-2038-PST-E	Screening Date 31-Oct-2011 Respondent Ray Rocha dba Pa
on 2 (September 2002 vision October 30, 2008		Case ID No. 42878
	. Taul	Reg. Ent. Reference No. RN101910032
	e rank	Media [Statute] Petroleum Storag Enf. Coordinator Rajesh Acharya
		Violation Number 6
	30 Tex. Admin. Code § 334.10(b)	Rule Cite(s)
	n UST records and make them immediately available for inspection	Violation Description Failed to maintain
	upon request by agency personnel.	Tiological Description
\$10,000	Base Penalty	
	n Haalth Matriv	> Environmental, Property and Human
	Harm	
	Moderate Minor	Release Major OR Actual
	Percent 0%	Potential
		>Programmatic Matrix
	Moderate Minor	Falsification Major
	Percent 10%	(<u>* *</u>
		Matrix
	% of the rule requirement was not met.	Notes 100%
	Adjustment \$9,000	
\$1,000		
		iolation Events
	1 Number of violation days	Number of Violation Events
		daily
		weekly monthly
\$1,000	Violation Base Penalty	mark only one quarterly quarterly
		semiannual annual
	x	single event
	One single event is recommended.	
		<u>L</u>
\$0	0.0% Reduction	ood Faith Efforts to Comply
	Before NOV NOV to EDPRP/Settlement Offer	Extraordinary
		Ordinary
	X (mark with x)	N/A
	he Respondent does not meet the good faith criteria for	Notes
	this violation.	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
		<u> </u>
\$1 000	Violation Subtotal	
\$1,000	Violation Subtotal	
\$1,000	Violation Subtotal Statutory Limit Test	conomic Benefit (EB) for this violation
\$1,000 \$1,106	Name and the second sec	conomic Benefit (EB) for this violation Estimated EB Amount

	Petroleum Sto	rage Tank				Percent Interest	Years of
Violation No.	6					5.0	Depreciation 1!
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
Delayed Costs							
Delayed Costs Equipment	<u> </u>	1		0.00	\$0	\$0	\$0
Buildings		1		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-May-2011	20-May-2012	1.00	\$25	n/a	\$25
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	Estimated	d cost to maintain		0.00 ate Red	\$0 quired is the inves	n/a tigation date. Final I	\$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal			estimate	0.00 ate Red d date	\$0 quired is the inves of compliance.	n/a	\$0 Date is the
Notes for DELAYED costs Avoided Costs			estimate	0.00 ate Red d date	\$0 quired is the inves of compliance. ig item (except is \$0 \$0	n/a tigation date. Final I for one-time avoic \$0 \$0	\$0 Date is the led costs) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel			estimate	0.00 ate Red d date nterir 0.00 0.00	\$0 quired is the inves of compliance. ig item (except is 0	n/a tigation date. Final I for one-time avoic \$0 \$0 \$0 \$0	\$0 Date is the led costs) \$0 \$0 \$0 \$0
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Notes for DELAYED costs AVOIDED COSTS Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			estimate	0.00 ate Red d date enterin 0.00 0.00 0.00 0.00 0.00	\$0 quired is the inves of compliance. ig item (except i	n/a tigation date. Final I for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 Date is the ied costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			estimate	0.00 ate Red d date enterin 0.00 0.00 0.00 0.00 0.00 0.00 0.00	\$0 quired is the inves of compliance. ig item (except i	n/a tigation date. Final I for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 Date is the led costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs AVOIDED COSTS Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			estimate	0.00 ate Red d date enterin 0.00 0.00 0.00 0.00 0.00	\$0 quired is the inves of compliance. ig item (except i	n/a tigation date. Final I for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 Date is the ied costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN604040675	ROCHA, RAY	Classificat	ion: Ratin	ıg:
Regulated Entity:	RN101910032	PARADISE POINT R	RV MARINA Classificat	ion: Site R	Rating:
ID Number(s):	PETROLEUM S REGISTRATIO	TORAGE TANK	REGISTRATION	4705	8
Location:	648 PARADISE I	LOOP, HEMPHILL, TX,	75948		
TCEQ Region:	REGION 10 - BE	AUMONT			
Date Compliance History Prepared:	March 22, 2012				
Agency Decision Requiring Compliance History:	Enforcement				
Compliance Period:	March 22, 2007	o March 22, 2012	-		
TCEQ Staff Member to Contact for Additional Info Name: Rajesh Acharya		this Compliance History			
 Has the site been in existence and/or operation Has there been a (known) change in ownership, If YES, who is the current owner/operator? 	for the full five year operator of the site		YES		
4. If YES , who was/were the prior owner(s)/ope	rator(s)?	Paradise Point Lake Pro	perties, LLC	78 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	***************************************
5. If YES, when did the change(s) in owner or op	erator occur?	9/1/2011			
6. Rating Date: N/A Repeat Violator:	N/A				
Components (Multimedia) for the Site: A. ` Final Enforcement Orders, court judgm N/A	ents, and consent o	lecrees of the State of Te	xas and the federal government.		
B. Any criminal convictions of the state of N/A	Texas and the feder	ral government.			
C. Chronic excessive emissions events. N/A					
D. The approval dates of investigations. (C		Io.)			
E. Written notices of violations (NOV). (Con N/A	CEDS Inv. Track. N	o.)			
F. Environmental audits. N/A					
G. Type of environmental management sys	stems (EMSs).				
H. Voluntary on-site compliance assessme N/A	nt dates.				
I. Participation in a voluntary pollution re	eduction program.				
N/A J. Early compliance.					
N/A Sites Outside of Texas					
N/A					



Texas Commission on Environmental Quality



ON ON
-
QUALITY

AGREED ORDER DOCKET NO. 2011-2038-PST-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ray Rocha dba Paradise Point RV Marina ("the Respondent") under the authority of Tex. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent operates a retail convenience facility at 648 Paradise Loop in Hemphill, Sabine County, Texas (the "Facility").
- 2. The Respondent's one underground storage tank ("UST") is not exc.npt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 26, 2011.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Twelve Thousand Seven Hundred Fourteen Dollars (\$12,714) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Four Hundred Forty-Three Dollars (\$443) of the administrative penalty and Two Thousand Five Hundred Forty-Two Dollars (\$2,542) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Seven Hundred Twenty-Nine Dollars (\$9,729) of the administrative penalty shall be payable in 23 monthly payments of Four Hundred Twnety-Three Dollars (\$423) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, the Respondent is alleged to have:

1. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on May 20, 2011 and a

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Ray Rocha dba Paradise Point RV Marina DOCKET NO. 2011-2038-PST-E Page 3

record review conducted on October 21, 2011. Specifically, the delivery certificate expired on February 29, 2008.

- 2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011. Specifically, the Respondent accepted one delivery of fuel without a delivery certificate.
- 3. Failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011.
- 4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST, in violation of 30 Tex. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011.
- 5. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011.
- 6. Failed to provide release detection for the piping associated with the UST, in violation of 30 Tex. Admin. Code § 334.50(b)(2), and Tex. Water Code § 26.3475(a), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011. Specifically, the Respondent did not conduct the annual piping tightness test.
- 7. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 Tex. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on May 20, 2011 and a record review conducted on October 21, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ray Rocha dba Paradise Point RV Marina, Docket No. 2011-2038-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8;
 - ii. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 Tex. Admin. Code § 334.10;
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST, in accordance with 30 Tex. ADMIN. CODE § 37.815;
 - ii. Install a corrosion protection system and test the system, in accordance with 30 Tex. ADMIN. CODE § 334.49; and
 - iii. Implement a release detection method for the UST at the Facility and conduct the annual piping tightness test, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

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with Ordering Provision Nos. 2.a.i. through 2.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Beaumont Regional Office Texas Commission on Environmental Quality 3870 Eastex Freeway Beaumont, Texas 77703-1892

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission		
Parm Javen J.	6/18/12	
For the Executive Director	Date	
I, the undersigned, have read and understand the a agree to the attached Agreed Order on behalf of the do agree to the terms and conditions specified therei accepting payment for the penalty amount, is material	entity indicated n. I further ackr	below my signature, and I nowledge that the TCEQ, in
 I also understand that failure to comply with the and/or failure to timely pay the penalty amount, may A negative impact on compliance history; Greater scrutiny of any permit applications su Referral of this case to the Attorney General additional penalties, and/or attorney fees, or to the Increased penalties in any future enforcement Automatic referral to the Attorney General's 	result in: bmitted; al's Office for c to a collection age t actions;	ontempt, injunctive relief, ency;
and TCEQ seeking other relief as authorized by lav In addition, any falsification of any compliance documents.	N.	
	7/	
Signature Signature	Date /	nfor
Name (Printed or typed) Authorized Representative of	Title	

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.